



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation
on the 8th day of February, 1999

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Agreements Adopted by the Tariff Coordi-	Docket OST-98-4892- <i>2</i>
nating Conferences of the International :	R-1 through R-14
Air Transport Association relating to :	Docket OST-99-5015-L
TC3, TC31 U.S. Passenger Fares	

ORDER

Various members of the International Air Transport Association (IATA) have filed agreements with the Department under section 41309 of, Title 49 of the United States Code (Code) and Part 303 of the Department's regulations. The agreements were adopted at the TC3 Passenger Tariff Coordinating Conference held in Bangkok November 18-27, 1998, and by mail vote. 1/

The agreement in Docket OST-98-4892 is comprised of resolutions affecting foreign air transportation between U.S. points in Area 3 (Guam, Saipan, and Pago Pago) and points in South East Asia, South West Pacific, and the South Asian Subcontinent. The agreement amends children's fare percentages by area and market; sets first class and economy fares from Bangkok to Guam and Saipan and first class and business class fares from Bangkok to Pago Pago at government approved levels; **makes** minor changes to excursion fare seasonality and other conditions of travel; and despecifies fares between Pusan and Guam and Saipan to reflect cessation of direct service.

The agreement in Docket OST-99-5015 corrects the maximum stay provision of intermediate class spouse fares from Japan to Hawaii to reflect a previous conference oversight.

We will **approve** the agreements. Based on our review of the information submitted and other relevant material, we conclude that the agreements will not result in fares that are unlawful or injurious to competition in the markets at issue. Our approval of the changes to children's fares and other minor changes to excursion fares is consistent with Department policy as stated in Order 85-3-8, March 4, 1985. We allow carriers wide latitude in pricing these types of fares, which are generally sensitive to market demand and other competitive pressures that obviate the need for regulatory intervention in most circumstances.

1/ IATA memoranda PTC3 0257, 0259, 0261, 0263, and 0266, filed with the Department December 9, 1998 (Docket OST-98-4892), and PTC31 Telex Mail Vote 985, filed January 19, 1999 (Docket OST-99-5015).

We also generally do not exercise regulatory control over passenger fares and conditions in markets that are not directly served (See, for example, Orders 89-4-42, April 18, 1989, and 88-4-5, April 1, 1998). While normal fares have been changed under the agreement in Docket OST-98-4892, none of the markets have direct service. 2/

Pursuant to the authority duly assigned under the Department's Regulations, 14 CFR 385.13:

1. We do not find that the resolutions set forth in the Attachment to this order, and which have direct application in foreign air transportation as defined by the Code, are adverse to the public interest or in violation of the Code, or likely to lessen competition substantially;

2. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless accepted on foreign policy and comity grounds by Order 85-5-32, May 6, 1985. The Department found that important transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects. Antitrust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, such conferral is mandatory under 49 U.S.C. 41308.

Order 85-5-32 contemplates that the products of fare and rate conferences will be subject to individual scrutiny and will be approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in violation of the Code. As with the underlying IATA conference machinery, upon approval of a conference agreement, immunity for that agreement must be conferred under the Code. Consequently, we will grant antitrust immunity to the agreements in Docket OST-98-4892 and OST-99-5015, the resolutions of which are set forth in the Attachment to this order, subject to previous conditions imposed.

2/ For this reason we will not impose our standard conditions regarding adherence to the Standard Industry Fare Level (SFFL). The only markets where normal fares are affected by the agreements, Bangkok to Guam, Saipan, and Pago Pago, no longer have direct service.

Resolutions With Direct Application In
Foreign Air Transportation, Docket OST-98-4892
U.S. Territories Within TC3

<u>Resolution</u>	<u>Description</u>
PTC3 0257-- Within South East Asia	
R-1; 002k	Special Amending Resolution Within South East Asia (New)
R-2; 043b	Intermediate Class Fares Within South East Asia (Amending)
R-3; 053b	First Class Fares Within South East Asia (Amending)
R-4; 063b	Economy Class Fares Within South East Asia (Amending)
R-5; 070uu	Excursion Fares Within South East Asia (Amending)
PTC3 0259-- Within South West Pacific	
R-6; 002ee	Special Amending Resolution Within South West Pacific (New)
PTC3 0261-- Between South East Asia And South Asian Subcontinent	
R-7; 043e	Intermediate Class Fares Between South East Asia And South Asian Subcontinent (Amending)
R-8; 053e	First Class Fares Between South East Asia And South Asian Subcontinent (Amending)
R-9; 063e	Economy Class Fares Between South East Asia And South Asian Subcontinent (Amending)
PTC3 0263-- Between South East Asia And South West Pacific	
R-10; 002u	Special Amending Resolution Between South East Asia And South West Pacific (New)
R-11; 043h	Intermediate Class Fares Between South East Asia And South West Pacific (Amending)
R-12; 053h	First Class Fares Between South East Asia And South West Pacific (Amending)
R-13; 063h	Economy Class Fares Between South East Asia And South West Pacific (Amending)
PTC3 0266-- Between Japan, Korea And South East Asia	
R-14; 002v	Special Amending Resolution Between Japan, Korea And South East Asia (New)

Resolutions With Direct Application In
Foreign Air Transportation, Docket OST-99-5015
TC31 North And Central Pacific

<u>Resolution</u>	<u>Description</u>
091p	Special Passenger Amending Resolution To Correct Maximum Stay Provisions For Intermediate Class Spouse Fares From Japan To Hawaii

ACCORDINGLY,

We approve and grant antitrust immunity to the agreements contained in Dockets OST-98-4892 and OST-99-5015, as set forth in finding paragraph 1 above, subject to previous conditions imposed.

Persons entitled to petition the Department for review of this order, under 14 CFR 385.85, may file such petitions within ten days after the service data of this order.

This order shall be effective and shall become the action of the Department of Transportation upon expiration of the above period, unless within such period a petition for review is filed or the Assistant Secretary for Policy and International Affairs gives notice that he will review this order on his own motion.

By:

Paul L Gretch

Director, Office of International Aviation

(SEAL)

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